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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,902	07/10/2003	Marc Pensis	PC23103A	1667

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PFIZER INC
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EXAMINER

RAEVIS, ROBERT R

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,902

Applicant(s)

PENSIS ET AL.

Examiner

Robert R. Raevis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claims 1-10 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, are the elements of the last three lines really a "holder" (line 1), or a - - system - -? The preamble calls for a holder, but the body of the claims are directed to a system, as the body is a list of elements ("means for holding a probe" and "means for providing gas" to the same probe) without any claimed connection. Note that claim 2 calls for a connection, suggestive that claim 1 is directed to a system.

As to claim 8, how many of "a plurality" are required to provide the number necessary to provide for "circumferentially disposed"? Normally, "plurality" means at least two, but two arguably does not provide a circumference.

As to claim 26, claim 25 expressly states that the second pressure is "higher" (last line of claim 25) than the first; but claim 26 expressly suggests that both the first and second pressures may be the same value. (Note that the claimed ranges in claim 26 do allow for the possibility that both the first and second pressures are 10psi.) Thus, claim 26 is not consistent with intermediate claim 25.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-3,7,8,6,11-13,16,19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by DeThomas et al.

As to claims 1,11,12,19,20, DeThomas et al teach a probe 15 holder, comprising: means to hold a probe 15 (either a portion of the vertical wall of container 13, or even the entire container 13), and blowers providing air to the contents of the container resulting in blowing air and powder scrubbing the probe. (See col. 3, lines 16-23) It is the providing of the air to the window that clears contaminants from the window.

As to claims 2,3, the blowers are in the container 13 which holds the probe, and the mesh 14 has many orifices near the probe detecting end.

As to claim 7, the volume below the mesh 14 is a manifold.

As to claims 8,6,21, apertures in mesh have a plurality of arrangements of apertures.

As to claim 13, the probe is securely placed in the wall of the container.

As to claim 16, the powder is processed, and material removed from the detecting portion of the probe contains moisture that would otherwise have been measured.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeThomas.

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DeThomas expresses drying/measuring in a "batch" (col. 3, line 29) process, but the written specification does not refer to a plurality of measurements.

As to claim 22, it would have been obvious to utilize the assembly of Figure 1 to provide for a plurality of batch dryings/measurings, as it is known that a plurality of batch processes will permit for a large quantity of material to be processed. A plurality of batch processes carried out in order (example, three batches in a row) necessarily results in a plurality of batches having measurements (the first and third batch), while the middle batch necessarily includes gas application during the second batch's drying stage.

As to claims 25, 26, it would have been obvious in DeThomas's "batch" process to fill the container with material while the blowers *are off* so that material will not fly out of the entry of the container during insertion, and then subsequently turning the blowers on and measuring. This is especially so as it is known to place material into a container via a top located lid.

Claims 4,5,9,10,13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeThomas et al as applied to claims 2,1,11 above, and further in view of McGowan et al.

As to claims 4,5,9,10,13,14,15, it would have been obvious to employ McGowan's flange52/bolt50/weld48(with attached sleeve) type coupling to connect DeThomas's probe to the container wall 13 because DeThoma's schematic connection between the probe 15 and container 13 is suggestive of any known (McGowan's) probe

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connection. McGowan teaches that flange coupling allow for secure probe connections to walls.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeThomas et al as applied to claim 16 above, and further in view of Applicant's Statement.

As to claim 17, Applicant describes (p. 1 of written specification) a need to determine moisture content of process material (pharmaceutical) in a dryer, but does not apply a probe.

As to claims 17 and 18, it would have been obvious to DeThomas's system to accurately measure the moisture of such material as DeThomas teaches that moisture of powder may accurately be determined by use of a probe.

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeThomas et al as applied to claim 19 above, and further in view of McGowan et al and Applicant's Statement.

As to claims 23 and 24, it would have been obvious to employ McGowan's flange 52/bolt 50/weld 48 (with attached sleeve) type coupling to connect DeThomas's probe to the container wall 13 because DeThomas's schematic connection between the probe 15 and container 13 is suggestive of any known (McGowan's) probe connection. McGowan teaches that flange coupling allow for secure probe connections to walls. In addition, it would have been obvious to DeThomas's system to accurately measure the moisture of such material as DeThomas teaches that moisture of powder may accurately be determined by use of a probe.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Church et al has an o-ring 40 for sealing.

Ply passes gas passed a window to *directly* clean/protect the window with the gas.

McIntyre teaches calibration gas within a probe.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 7am to 4pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Raevis

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